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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/599,778

09/24/2007

Patrick Blin

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EXAMINER

DESAI, KAUSHIKKUMAR A

ART UNIT

PAPER NUMBER

3728

NOTIFICATION DATE

DELIVERY MODE

09/29/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketadministrator@mwv.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/599,778	<b>Applicant(s)</b> BLIN, PATRICK	
	<b>Examiner</b> KAUSHIKKUMAR DESAI	<b>Art Unit</b> 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/27/07</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because as recited in claim 24, “a hinged connection between at least one of said reinforcing panels and an adjacent reinforcing panel comprises a portion which partially separates said one and adjacent reinforcing panels to facilitate folding of said one and adjacent reinforcing panels” is not labeled. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: as recited in claim 24, “a hinged connection between at least one of said reinforcing panels and an adjacent reinforcing panel comprises a portion which partially separates said one and adjacent reinforcing panels to facilitate folding of said one and adjacent reinforcing panels.” Is not described in the specification. No new subject matter should be added to the specification.

***Claim Objections***

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 16-29 been renumbered 15-28.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15-18, 21, 22, 24 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5699959 to Huspeka et al., in view of US 3027060 to Beder.

As to claims 15, 22 and 26, Huspeka discloses a two-part carton (10, fig 1) comprising an open top container (12) and a top closure (14) connected to said open top container, said open top container and said top closure formed from separate blanks respectively, said open top container including a series of wall panels (20, 22, 24 and 26), said open top container is reinforced by a series of integral reinforcing panels (30, 32, 34 and 36, fig 4) hinged respectively to said wall panels along an upper periphery of said open top container, each reinforcing panel is disposed in overlapping relationships with a respective one of said wall panels. Huspeka lacks each reinforcing panel hingedly connected to at least an adjacent one of said reinforcing panels. Beder teaches that each reinforcing panel (14A, fig 1) is hingedly connected to at least an adjacent one of said reinforcing panels (14B). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make Huspeka reinforcing panel hingedly connected to an adjacent one of said reinforcing panels as taught by Beder; such a modification would provide stronger reinforcement on the edges of the open top container. "A combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Int 'l v. Teleflex Inc.*, 127 S.Ct. 1731, 82 USPQ2d at 1396.

As to claim 16, Huspeka modified in view of Beder discloses top closure is disposed at an elevation below said upper periphery of said open top container (fig 9).

As to claim 17, Huspeka modified in view of Beder discloses top closure is disposed at an elevation substantially equal to the elevation of a lower extremity of said reinforcing panels (fig 9).

As to claims 18 and 28, Huspeka modified in view of Beder discloses open top container comprises at least one aperture (42) that can be inherently used as a reinforced handle aperture struck from at least one of said reinforcing panels (38), and wherein said at least one handle aperture is located at an elevation above said top closure (44, fig 9).

As to claims 21 and 27, Huspeka modified in view of Beder discloses reinforcing panels (30, 32, 34, 36, fig 1) are hingedly (at 29) connected to the open top container entirely along said upper periphery of said open top container.

As to claim 24, Huspeka modified in view of Beder discloses a hinged connection between at least one of said reinforcing panels and an adjacent reinforcing panel comprises a portion which partially separates (Beder, 16, fig 1) said one and adjacent reinforcing panels to facilitate folding of said one and adjacent reinforcing panels.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huspeka modified in view of Beder, further in view of GB 406511 to Mardon.

As to claim 19, Huspeka modified in view of Beder discloses the claimed invention except top closure comprises apertures for receiving articles, and wherein each of said apertures has a frangible connection with at least another one of said apertures to facilitate removal of said articles. Mardon teaches about the top closure (4, fig 1) with apertures (5) for receiving articles, and wherein each of said apertures has a frangible connection (slits 7 on cardboard) with at least another one of said apertures to facilitate removal of said articles. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide aperture on Huspeka's top cover as taught by Mardon; such a modification would facilitate easy removal of content from the open top container without removing the top cover. "A combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Int 'l v. Teleflex Inc.*, 127 S.Ct. 1731, 82 USPQ2d at 1396.

As to claim 20 Huspeka modified in view of Beder, further modified in view of Mardon discloses the carton strong enough to retain sufficient structural integrity so that the carton can be re-used for returning empty articles upon removal of said articles.

8. Claims 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huspeka modified in view of Beder, further in view of US 1812311 to Wolf.

As to claim 23, Huspeka modified in view of Beder discloses the claimed invention except top closure comprises at least one end flap hingedly connected thereto, and said at least one end flap is folded downward to lie in a plane of said at least one reinforcing panel to avoid covering said at least one handle aperture. Wolf teaches about top closure (3, fig 1) comprises at least one end flap (15-18) hingedly connected thereto, and said at least one end flap (16 and 17) is folded downward. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Huspeka's top closure with flap folded downward as taught by Wolf; such a modification would avoid covering handle aperture. "A combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Int 'l v. Teleflex Inc.*, 127 S.Ct. 1731, 82 USPQ2d at 1396.

As to claim 25 Huspeka modified in view of Beder , further modified in view of Wolf discloses that top closure (3, fig 1) comprises a main panel (13) and a plurality of flaps (14-18) hingedly connected to said main panel along a periphery of said main panel, and wherein a first pair of oppositely disposed ones of said flaps (14 and 15) are folded upwardly from said main panel and a second pair of oppositely disposed ones of said flaps (16 and 17) adjacent to said first pair are folded downwardly of said main panel.

### ***Conclusion***

**9. Prior Art not relied upon:** Please refer to the references listed in attached PTO-892, which, are not relied upon for claim rejection since these references are relevant to



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the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAUSHIKKUMAR DESAI whose telephone number is (571)270-7290. The examiner can normally be reached on Monday- Friday 7:00 AM - 4:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571-272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. D./

Examiner, Art Unit 3728

Thursday, September 17, 2009

/Stephen Garbe/

Primary Examiner, TC 3700